D.B. CIVIL WRIT PETITION NO.245/2007

Union of India & Ors.
Vs
Smt. Parwati Devi & Ors.

Date of Order :: 22-01-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri Vinit Kumar Mathur, with
Shri M.S. Godara, for the petitioner.

This writ petition has been filed for quashing the order of the Central Administrative Tribunal, Jodhpur Bench dated 31.8.2006 in OA no.267/2004 allowing the original application of respondent Parwati Devi & others. While allowing the application the Tribunal directed the petitioners to pay family pension and the balance amount of gratuity less the amount already paid to Vinod with interest @ 8% per annum from the date due till date of payment.

The case of the petitioners is that the marriage of Parwati Devi was void, and not being the legally wedded wife of Rajendra Kumar she is not entitled to family pension. It is said that Parwati Devi married the concerned government servant, namely, Rajendra Kumar during subsistence of the first marriage with Prabhati.

It is the admitted position that Prabhati did not contest the claim of Parwati though she was impleaded as respondent before the Tribunal; only her son Vinod contested the claim. Vinod is the son from the first wife i.e. Prabhati and has been paid his share in the amount of gratuity. According to the respondents she married Rajendra Kumar after divorce and therefore, she was the legally wedded wife of Rajendra Kumar and is entitled to family pension on his death. Her case was accepted by the Tribunal. We are of the view, in the absence of any contest by Prabhati, there being no dispute between Parwati Devi and Prabhati about the validity of Parwati's marriage with Rajendra Kumar, the petitioners cannot raise prolong dispute.

We find no error in the order of the Tribunal to warrant interference by this Court. The petition is dismissed.

[GOVIND MATHUR],J. [S.N.JHA],CJ.

Praveen